

OD – 2

ORDER SHEET
PLA/155/2008
IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY AND INTESTATE JURISDICTION
ORIGINAL SIDE

IN THE GOODS OF:
ARUN KUMAR KHAN (DEC)

BEFORE:

The Hon'ble JUSTICE SUGATO MAJUMDAR

Date : 28th SEPTEMBER, 2022.

Appearance:
Ms. Iti Dutta, Adv.
Ms. P. Jain, Adv.

The Court : The instant application is filed praying for probate of the last will and testament dated 11th December, 2006 executed by the testator Arun Kumar Khan.

The deceased testator, namely, Arun Kumar Khan breathed his last on 4th May, 2007 at Kolkata but his last abode was at Mankundu, P.S.-Bhadreswar, District – Hooghly. Prior to death, the deceased executed his last will and testament on 11th December, 2006, grant of probate of which is sought for in the instant case.

One of the attesting witnesses, namely, Debabrata Saha filed affidavit in which it is solemnly affirmed that the testator executed the will by putting his signatures at the foot of the will in presence of the said attesting witness and the attesting witness also put his signature in presence of the testator in the said will.

This apart, the other attesting witness was present and put signature in presence of the testator.

It is further affirmed that at the point of time of the execution of the will, the testator had testamentary capacity, was physically fit and mentally alert and executed the will out of his own volition and pleasure.

The affidavit is also filed by the widow of the deceased testator solemnly affirming therein that she has “resigned and renounced” all her rights and title and has no objection in grant of the probate. The original death certificate of the testator is annexed along with the original will.

Uncontroverted material evidences show that will was executed in terms of Section 63 of the Indian Succession Act and proved in accordance with the provisions of Section 68 of the Indian Evidence Act.

It is established that the instant will is the last will and testament which was executed by the testator in a sound mind, good health and in full testamentary capacity in presence of attesting witnesses. Maximum ad-valorem court fees have been paid.

Let the probate of the will be granted, as prayed for.

(SUGATO MAJUMDAR, J.)